

REPORT DOCUMENTATION PAGE				Form Approved OMB No. 0704-0188	
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1. REPORT DATE (DD-MM-YYYY) 27-10-2010		2. REPORT TYPE FINAL		3. DATES COVERED (From - To)	
4. TITLE AND SUBTITLE BATTLEFIELD CONTRACTORS: OPERATIONAL RISK AND SYSTEM SUPPORT CONTRACTORS.				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) William G. Holt II, Lt Col, USAF				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Joint Military Operations Department Naval War College 686 Cushing Road Newport, RI 02841-1207				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION / AVAILABILITY STATEMENT Distribution Statement A: Approved for public release; Distribution is unlimited.					
13. SUPPLEMENTARY NOTES A paper submitted to the Naval War College faculty in partial satisfaction of the requirements of the Joint Military Operations Department. The contents of this paper reflect my own personal views and are not necessarily endorsed by the NWC or the Department of the Navy.					
14. ABSTRACT Service support contractors are a foundational part of the modern U.S. military. Reliance on contingency contractors dates back to at least the American Revolution, but the number of support contractors has grown significantly in the past decade. In fact, contractors now outnumber active duty personnel in operations in both Afghanistan and Iraq. This paper will focus specifically on high technology system support contractors. While possessing a number of benefits, such as expertise and reduced long-term costs, the U.S. military's over reliance on high technology system support contractors creates unacceptable risks for the operational commander. The U.S. military has struggled with the risks of poor contractor oversight and the individual contractor's right to refuse to perform duties under high threat conditions. This paper will discuss these risks and propose solutions to improve contracting staff and deployed oversight, and providing a means to replace contractors who fail in harm's way.					
15. SUBJECT TERMS Contractor, contracting, service support contractors, operational risk, contractor reliance, contingency contracting					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES 24	19a. NAME OF RESPONSIBLE PERSON Chairman, JMO Dept
a. REPORT UNCLASSIFIED	b. ABSTRACT UNCLASSIFIED	c. THIS PAGE UNCLASSIFIED			19b. TELEPHONE NUMBER (include area code) 401-841-3556

NAVAL WAR COLLEGE

Newport, R.I.

BATTLEFIELD CONTRACTORS: OPERATIONAL RISK AND SYSTEM SUPPORT
CONTRACTORS

by

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature:_____

27 October 2010

Contents

Introduction	1
The Road Well Traveled	2
Risk and Reality	6
Recommendations	11
Counter Arguments	14
Conclusion	16
Bibliography	18

Abstract

Service support contractors are a foundational part of the modern U.S. military. Reliance on contingency contractors dates back to at least the American Revolution, but the number of support contractors has grown significantly in the past decade. In fact, contractors now outnumber active duty personnel in operations in both Afghanistan and Iraq. This paper will focus specifically on system support contractors who provide maintenance for high technology systems such as aircraft, sensors, intelligence and communications infrastructure. While possessing a number of benefits, such as expertise and reduced long-term costs, the U.S. military's over reliance on high technology system support contractors creates unacceptable risks for the operational commander. The U.S. military has struggled with the risks of poor contractor oversight and the individual contractor's right to refuse to perform duties under high threat conditions. This paper will discuss these risks and propose solutions to improve contracting staff and deployed oversight, and providing a means to replace contractors who fail in harm's way.

The scale of our contracting efforts in Afghanistan represents both an opportunity and a danger.¹

General David H. Petraeus
Commander, International Security Assistance Force/
United States Forces-Afghanistan

INTRODUCTION

The United States military's continued over reliance on system support contractors performing high-technology maintenance creates unacceptable risks for the Operational Commander. Component force providers and Operational Commanders must fully understand these risks and take appropriate steps to balance against them. The modern battlefield is not the same as it once was; at all levels, warfare is now an expanding, intricate web of uniformed service members, government civilians, contractors and sub-contractors. While there are certain benefits to contract support, what happens if a service support contractor fails to perform in a hostile environment, or refuses to perform when required to move outside the wire and away from the relative safety of large, fixed support bases?

Helmand Province Afghanistan, 2135Z, a small force consisting of U.S. Army infantry and their Afghanistan National Army counterparts cautiously make their way across several miles of flat barren ground. Reaching their objective, a quiet village at the base of a small mountain valley, they await intelligence confirmation from higher command prior to entering the village. Unfortunately, confirmation does not come as the Predator drone overhead is unable to complete its mission due to lack of contractor support for a critical, in country communications node. The contractor was a single point of failure and walked off the job after an increase in threat condition. The team resets for another mission, one that will also rely on contractor support.

¹ General David H. Petraeus, to Commanders, Contracting Personnel, Military Personnel, and civilians of NATO ISAF and US Forces-Afghanistan, letter, subject: COMISAF's Counterinsurgency (COIN) Contracting Guidance, 8 September 2010.

Events such as these can and have unfolded on battlefields in Afghanistan, Iraq and elsewhere. In order to maintain unity of effort and achieve tactical, operational, and strategic level objectives, contractors are often tasked with extremely complex duties, and often in hazardous situations. While this formula has proven advantages, it also has significant risks. Often being the most controversial type of contract, a significant body of research on security contract issues exists; therefore, this paper will focus instead on high-technology service support contractors, commonly referred to as “contingency contract personnel.”² These contractors provide “support to specific systems throughout the system’s life cycle (maintenance for key weapons systems, command and control infrastructure, and communications systems).”³

THE ROAD WELL TRAVELED

Battlefield contractors have for centuries performed vital functions for military forces at war. “Field armies in the 1700s and 1800s relied on contracted wagons and drivers; contractors have built bases, depots, ports, and roads; and almost all medical care was once provided by civilians.”⁴ Although the U.S. military has a long history of reliance on contract support, the ratio of contractors to active duty has increased at an exponential rate since the end of the Cold War. This paradigm, founded in historical realities, will most certainly continue in the future. The increase in contractors has been driven by three primary factors; policy to reduce military manning end strength, cost savings and the exponential increase in military technology.

² DoD Instruction 3020.41, *Contractor Personnel Authorized to Accompany the U.S. Armed Forces* (Washington, DC: Department of Defense), 3 October 2005, 24.

³ Ibid, 26.

⁴ Maj William W. Epley, “Civilian Support of Field Armies,” *Army Logistician*, November/December 1990, 30-35, in Congress of the United States, Congressional Budget Office Study, *Logistics Support for Deployed Military Forces* (Washington, D.C., CBO, Oct 2005), 1.

The current trend in outsourcing began with President Reagan who “sought to reform the government and reduce costs through outsourcing.”⁵ This trend toward outsourcing was continued through the Bush and Clinton’s administrations in the 1990s.⁶ In fact, U.S. military active duty manpower fell from 2.1 to 1.4 million during the 1990s.⁷ The Navy alone lost 35.8% of its active duty manpower and the Army fell 32.1%.⁸ One in three active duty soldiers left the ranks and was not replaced. This downsizing occurred during a time of military reorientation following the end of the cold war, and was accelerated further by a change in thinking following the American led coalition’s rapid and seemingly spectacular success in the first Gulf War.

After the first Gulf War, many analysts and leaders believed America’s future wars would be fought swiftly with strong support from coalition or alliance partners. Guided by this line of thinking, President Clinton implemented a 40 percent decrease in the military budget in 1993.⁹ Since then, it has become standard practice for contractors to “fill the huge gap between the support force that was needed and the military support forces that were available.”¹⁰ This is a basic factor force balancing effort. In 2002 the U.S. military lacked the active force structure to support the war in Afghanistan and the approaching war in Iraq without significant external assistance. The U.S. military found itself thirsty for additional manpower and turned to American capitalism for the answer... contractors. With the arrival of supplemental budget increases, the military found the necessary funding to support our current contract structure.

⁵ LCDR John Campbell, *Outsourcing and the Global War on Terrorism (GWOT): Contractors on the Battlefield* (Fort Leavenworth, KS: School of Advanced Military Studies, 2005), 10.

⁶ Ibid.

⁷ Neil J. Harris, *Contractors and the Cost of War: Research into Economic and Cost-Effectiveness Arguments* (Monterey, CA: Naval Postgraduate School, 2006), 16.

⁸ Ibid.

⁹ Franke, 10.

¹⁰ Mark Cancian, “Contractors: The New Element of Military Force Structure”, *Parameters*, Autum 2008, 6, available at <http://proquest.umi.com/pqdweb?index=3&did=1602606331&SrchMode=1&sid=6&Fmt=3&VInst=PROD&V=PQD&RQT=309&VName=PQD&TS=1287429291&clientId=18762>, accessed on 13 September 2010.

Considering the conflict in Afghanistan is over 9 years in length, is not surprising that the U.S. contractor force is larger than it has ever been in history.¹¹ During the Revolutionary War the ratio was one contractor for every six military; in World War I it had decreased to one in twenty-four, but increased to one in seven during World War II.¹² Most notably, the ratio was lowest during DESERT STORM at one to fifty-five.¹³ In 2005, the Congressional Budget Office estimated the ratio to be one to one in Iraq.¹⁴ This is “2.5 times higher than that ratio during any other major U.S. conflict.”¹⁵ Perhaps even more notable is the fact that at its height, the contract force in Afghanistan made up 69 percent of the DOD forces in country.¹⁶ It should not be surprising that in 2006 “the Pentagon spent more than \$300 billion on contracted goods and services, making it the largest purchasing agent in the world.”¹⁷ According to Pentagon officials, “private contractors now outnumber American troops serving in harm’s way”; directly attesting to the over-reliance on contract support.¹⁸

Another incentive for the use of contractors is the proven cost savings when compared to similarly trained active duty military forces. The Office of Management and Budget documented a “cost savings of 20 to 50 percent when federal and private sector service providers compete to

¹¹ Congressional Budget Office, *Contractors’ Support of U.S. Operations in Iraq*, (Washington D.C.: Congress of the United States, August 2008), Table 2, 16. This data was derived from William W. Epley, et al.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Congressional Budget Office, *Contractors’ Support of U.S. Operations in Iraq*, (Washington D.C.: Congress of the United States, August 2008), 1.

¹⁶ Moshe Schwartz, *Department of Defense Contractors in Iraq and Afghanistan” Background and Analysis*, Congressional Research Service Report for Congress (Washington, D.C.: July 2, 2010), 11.

¹⁷ Shay, Assad, Statement before the Committee on Armed Services. U.S. house of Representatives, 20 September 2007. In William C. Latham, *Not My Job: Contracting and Professionalism in the U.S. Army*, Military Review, (Fort Leavenworth: Mar/Apr 2009), Vol. 89, Iss. 2, 40, available at <http://172.16.99.145:9090/progress?pages&id=1344654238&sp2&fileName=TWIsaXRhcnISZXXZpZXdfMjAwOTA0MzBfYXJ0MDA4LnBkZg==&url=aHR0cDovL3VzYWZhYy5hem15Lm1pbC9DQUMyL01pbGI0YXJ5UmV2aWV3L0FyY2hpdmVzL0VuZ2xpc2gvTWIsaXRhcnISZXXZpZXdfMjAwOTA0MzBfYXJ0MDA4LnBkZg==&referer=aHR0cDovL3d3dy5iaW5nLmNvbS9zZWYyY2g/cT1XaWxsaWZtk0MuK0xhdGhhbSUyQytOb3QrTXkrSm9iJnNyYz1JRS1TZWFyY2hCb3gmRm9ybT1JRThTUkN=&foo=2>, accessed on 2 September 2010.

¹⁸ Latham, 40.

perform these functions.”¹⁹ However, the Congressional Budget Office identified that “over the long term, using military units would cost 90 percent more than using contractors.”²⁰ The latter number is understandable as it includes local and third country nationals who perform labor intensive logistics services, usually for much lower wages than even U.S. junior enlisted personnel.²¹ This has been referred to as the “capitalistic approach toward running the government.”²² Due principally to this cost/benefit analysis, the 2006 QDR contains numerous references directing the use civilian contractors as part of the “Total Force”.²³ One has only to look at the Office of Management and Budget’s A-76 Circular to understand the reliance on contractors. A-76 is part of a larger government effort which directs military services “to identify all activities, performed by government personnel, as either inherently governmental or commercial activities.”²⁴ The intent is to then move those activities not inherently governmental to commercial vendors. The 2001 Quadrennial Defense Review (QDR) expanded on this guidance to “focus DoD “owned” resources on excellence in those areas that contribute directly to warfighting. Only those functions that must be performed by DoD should be kept by DoD. Any function that can be provided by the private sector is not a core government function.”²⁵ It is not until the 2010 QDR that we see a change in policy direction; due largely to the risks associated with over reliance, both in relation to contractor numbers and lax contractor oversight.

¹⁹ Office of Management and Budget, *The President’s Management Agenda* (Washington, DC: Executive Office of the President, 2002), 17, available from <http://www.cio.gov/documents/mgmt.pdf>, accessed on 19 Oct 2010.

²⁰ Cancian, 9.

²¹ Ibid.

²² George Cahlink, “The Limits of Outsourcing,” in Air War College Nonresident Studies Senior Leader Coursebook 3. Edited by Eliece Lindsey-Isome (Maxwell AFB, AL: Air War College, January 2006), 346.

²³ Department of Defense, *Quadrennial Defense Review Report* (Washington, D.C.: Department of Defense, 6 February 2006), 4 available from <http://www.defense.gov/qdr/report/Report20060203.pdf>, accessed on 6 Oct 2010.

²⁴ Office of Management and Budget, *Circular Number A-76 (Revised), Performance of commercial Activities* (Washington, D.C.: Office of the President of the United States, 29 May 2003), paragraph 4a, available from http://www.whitehouse.gov/omb/circulars_a076_a76_incl_tech_correction/, accessed on 16 Oct 10.

²⁵ Department of Defense, *Quadrennial Defense Review Report* (Washington, D.C.: 30 September 2001), 53, available from <http://www.defense.gov/pubs/pdfs/qdr2001.pdf>, accessed on 6 Oct 2010.

The military's penchant for the most advanced levels of technology may in itself be the most significant driving factor in the over reliance on high-tech support contractors. The U.S. has transformed into an interconnected, technology based machine. From the operational to the most basic of tactical levels, decisions are often made not by the sergeant in the field, but by the colonel or general officer at an operations center. The shift is certainly influenced by counter-insurgency and collateral damage concerns. This new mode of operation is supported by an enormous technology engine made up of such systems as predator drones, complex secure communications systems and even more complex intelligence apparatus. All generating a common operating picture which commanders have come to depend on.

Think about the pictures of the Air Force Tactical Air Control specialist riding his horse in the mountains of Afghanistan "with a laptop computer strapped to the saddle horn, communicating via satellite and using laser range-finding devices coupled with GPS to find the exact location of both enemy and friendly forces."²⁶ All the while, communicating with aircraft and a tactical operations center supported by an integrated communications and intelligence network comprised largely of defense contractors. And if anything about the military contracting industry is certain, it is that it will continue to grow in the future.²⁷ It has been claimed that contractors "represent an important aspect of the future of war" and that "the idea of a large American military presence anywhere without contractors is now unthinkable."²⁸

RISK AND REALITY

²⁶ David A. Deptula, and Sigfried J. Dahl, "Transforming Joint Air-Ground Operations for the 21st Century Battlespace", in Air War College Nonresident Studies Senior Leader Course book 6. Edited by Eliece Lindsey-Isome (Maxwell AFB, AL: Air War College, January 2006), 280.

²⁷ David Isenberg, *Slippery Slope: Contractors' Impact on Military Culture* (United Press International, January 23, 2009), available from http://www.cato.org/pub_display.php?pub_id=9907 (accessed 13 September 2010).

²⁸ Robert D. Kaplan, "Outsourcing Conflict," *The Atlantic.com*, September 2007, available from <http://www.theatlantic.com/doc/200709u/kaplan-blackwater> (accessed on 25 September 2010).

*And indeed, numerous firms delayed, suspended, or ended their operations in Iraq, leaving the military in the lurch to pick up the slack.*²⁹

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The most significant risks related to high-tech support contractors can be defined in two specific categories; refusal to perform in combat and inadequate contract oversight. Although comprising just 3.9%, of contractors in the CENTCOM AOR, failure of high-tech support contractors to complete their mission could have an unbalancing effect entirely out of scale with their relatively small numbers.³⁰ The problem of over-reliance is not new; as early as 1982, the Defense Science Board found “there were no formal mechanisms to ensure [contractors’] continued performance.”³¹ Perhaps foreshadowing the growth in contract support across the military, the Congressional Record in 1984 identified that “there is no assurance that essential civilians...would be willing to remain in a potential war zone should a conflict actually start.”³²

Many battlefield contractors perform tasks such as food services, logistics and other warfighting support functions in forward deployed areas.³³ This type of logistical support allows the active force to focus on roles that are not suited for contractors, such as offensive combat operations. However, contractors who provide battlefield support or operation of high-technology systems such as aircraft maintenance, communications and intelligence systems differ in that they provide mission essential support that can have an immediate influence on mission success/failure and on the lives of U.S. and coalition soldiers.

²⁹ Volker Franke, *Security by Contractor: Outsourcing in Peace and Stability Operations*. Center for Complex Operations (Washington, DC: National Defense University, 2010), 17.

³⁰ Schwartz, 8.

³¹ Congressional Budget Office, *Logistics Support for Deployed Military Forces*” (Washington, DC: Congress of the United States, October 2005), 1.

³² Captain Isolde K. Garcia-Perez, *Contractors on the Battlefield in the 21st Century* (Fort Belvoir, VA: Army Logistics Management College, Logistics Executive Development Course, Nov/Dec 99), 3, available from <http://www.almc.army.mil/ALOG/issues/NovDec99/MS454.htm>, accessed on 13 September 2010.

³³ DoD, QDR 2001, 53.

It has been confirmed that “the loss of a mission-essential contractor potentially can degrade mission accomplishment and endanger soldiers.”³⁴ Most of these contractors possess a high degree of knowledge and expertise on their specific systems and many of them are performing duties for which no military or government civilian is trained to do. The reality is that “modern military operations now depend heavily on high-tech weapons systems that may be too sophisticated for junior Soldiers to maintain and repair.”³⁵ Many are in fact so complex that manufacturer support is paramount to system operation and reliability. The deficiency in backup military capability is clearly an issue as some contractors will not remain in a combat zone if the threat escalates or if asked to move forward to less secure areas of operation.

Unfortunately, the DoD continues to operate without a mechanism in place to guarantee contractors remain on the job during times of crisis, or when threat conditions increase in combat environments. As of July 2010, there were 3,684 high-technology system support contractors working in Iraq alone, yet there remains “no effective means or system to identify services that should be considered war stoppage”; or perhaps better termed as “mission essential”.³⁶ While, there “have been many instances of contractors, supplying fuel and supplies to troops on the front line, refusing to advance after meeting resistance from insurgents,”³⁷ there are also examples of support contractors refusing to operate in more dangerous areas. In effect, these contractors “left American troops sitting in the mud” with no backup capability to provide needed

³⁴ Perez, 3.

³⁵ Latham, 40.

³⁶ Schwartz, 8, and Campbell, 17. Campbell, first sites the terms “war stopper” and “war stoppage” as sourced from an Inspector General recommendation in a 1991 audit report.

³⁷ Kevin B. O’Brien, *Military contractors: How Early Integration in the Planning Process Would Achieve Greater Mission Success* (Newport, RI, U.S. Naval War College, 2010), 7.

support services.³⁸ Consider that living among the local population, vice large fixed bases, is a key element of counter insurgency operations, and this risk becomes even more germane.

The risk is highlighted by the types of jobs being performed by contract personnel. Not only are contracts supporting many aircraft maintenance, sensor, and communications functions, but contractors account for 70 percent of the intelligence collection budget.³⁹ It has been predicted that “there will be many situations where a contractor employee is the only person with the technical skill to perform functions necessary for the employment of a weapon system” and the military has “in effect, stopped trying to keep an organic ability.”⁴⁰ Indeed, there are currently Army helicopter units and numerous Air Force operational flying squadrons that rely exclusively on contracted line maintenance, with no military personnel trained to support the aircraft. Defense supplemental funds have sped this process by allowing the military to augment the traditional program of record acquisition processes with more rapid/direct acquisition methods. However, in 2009, Secretary of Defense Robert Gates attested that “We have not thought holistically or coherently about our use of contractors, particularly when it comes to combat environments or combat training.”⁴¹ The context for which he was speaking was in reference to contract oversight and the sheer size and complexity of our contract force.

Lack of proper contract oversight has plagued the U.S. military in combat locations since

³⁸ David Isenberg, *A Government in Search of Cover: PMCs in Iraq*, Conference paper, prepared for “Market forces: Regulating Private Military Companies (New York, NY: New York University School of Law, Institute for International Law and Justice, March 2006), 5, in Franke, 17.

³⁹ Tim Shorrock, *Spies for Hire: The Secret World of Intelligence Outsourcing* (New York, N.Y.: Simon and Shuster, 2008) and Thomas Frank, “Government by Contractor is a Disgrace,” *Wall Street Journal*, November 26, 2008, in Franke, 15.

⁴⁰ Steven J. Zamparelli, “Competitive Sourcing and Privatization” *Contractors on the Battlefield: What Have We Signed Up For?* Air Force Journal of Logistics (Fall 1999): 7, available at <http://proquest.umi.com/pqdweb?index=0&did=56367445&SrchMode=1&sid=1&Fmt=4&VInst=PROD&VType=PQD&RQT=309&VName=PQD&TS=1287429719&clientId=18762>, accessed on 18 October 2010.

⁴¹ U.S. Congress, Senate Committee on Armed Services, *To receive Testimony on the Challenges Facing the Department of Defense*, 110th Cong., 2d sess., January 27, 2009. In Schwartz, 15.

2001. Especially in the Army, which decreased its General Officer contracting positions from nine in the 1990 to zero by 2007.⁴² In that same time, the Army contracting force was cut from 10,000 to 5,500, yet requirements grew by 700 percent.⁴³ As of 2007, 67 percent of the Joint Contracting Command-Iraq/Afghanistan's contracting support was being done by the USAF and was under the leadership of an Air Force General Officer, although not a traditional Air Force mission.⁴⁴ While most contractors perform in an exceptional manner, often in hostile environments, it is well documented that "deficient statements of work, unclear expectations, sparse contract management, and poor contractor performance resulted in the Army spending \$4.2 million to rework items that were presented to the Army as meeting contract standards" in Iraq.⁴⁵ Simply put, "civilian contractors are not bound by the same ethos, codes, structures, and obligations" as military professionals.⁴⁶

All high-technology contractors are working for profit, and as such, they naturally weigh risk and benefits differently than active duty military personnel and commanders. While many of these high-tech support contractors are ex-military and may feel a sense of ownership and pride working with the government, many are also working only for the bottom line. Adding to the equation and complexity is the fact that some companies are so overwhelming in size that oversight becomes proportionally more difficult. One example where insufficient contractor oversight led to an immediate impact on American lives is that of aircraft maintenance in Iraq. Peter Singer maintains that "DynCorp's contract with the U.S. military for aviation support is an

⁴² Commission on Army Acquisition and Program Management in Expeditionary Operations, 32.

⁴³ Ibid, 2, 32.

⁴⁴ Ibid, 4.

⁴⁵ U.S. Government Accountability Office, *Operation Iraqi Freedom: Preliminary Observations on DOD Planning for the Drawdown of U.S. Forces from Iraq* (Washington, DC: GAO, 2009), 16, in O'Brien, 7.

⁴⁶ O'Brien, 7.

egregious example of such cutting corners with staffing.”⁴⁷ One contractor stated that maintenance work had been done by personnel with “absolutely no aviation experience.”⁴⁸ Some DynCorp employees claimed that several aircraft were lost in combat, not to enemy action, but instead to “faulty maintenance.”⁴⁹ In such instances, commanders are very limited in actions they can take unless individual contractors are found to be criminally at fault.⁵⁰

Currently, “contractors cannot be ordered to stay in a hostile environment or replace other contractors that decide not to deploy.”⁵¹ This leaves operational and tactical level commanders with little to do except work with the limited contracting staff to remedy the problem. However, the size and quality of the contracting staff itself is often a contributing factor. As the Gansler Commission found, “notwithstanding a seven-fold increase and greater complexity of contracting, the Institutional Army is not supporting this key capability...the Operational Army does not yet recognize the impact of contracting and contractors in expeditionary operations and on mission success.”⁵² While the probability is low, the cost of mission failure can be extremely high and there is currently little that can, or is, being done to guarantee against contractor failure.

RECOMMENDATIONS

⁴⁷ Peter W. Singer, *Corporate Warriors: The Rise of the Privatized Military Industry* (Ithaca, N.Y.: Cornell University Press, 2003) 156.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ The Military Extraterritorial Jurisdiction Act (MEJA) and recent changes to the Uniform Code of Military Justice (UCMJ) allow contractors to be prosecuted similarly to military personnel, but these proceedings are limited to criminal misconduct cases. Actions under MEJA and the UCMJ cannot be taken against contractors for failure to perform to standard due to lack of experience or training; nor can actions be taken against individuals who refuse to perform under hostile threat.

⁵¹ LCDR John Campbell, *Outsourcing and the Global War on Terrorism (GWOT): Contractors on the Battlefield*, (Fort Leavenworth, KS: U.S. Army Command and General Staff College, School of Advanced Military Studies, 2005), 18.

⁵² Commission on Army Acquisition and Program Management in Expeditionary Operations, Urgent Reform Required: Army Expeditionary Contracting (Washington D.C.: Secretary of the Army, 31 October 2007) 2. This report is commonly referred to as the Gansler Report, or Gansler Commission Report as Dr. Jacques S. Gansler former Under Secretary of Defense for Acquisition, Technology & Logistics was Chairman of the commission.

The American military must act to overcome obvious and potentially disastrous risks associated with unchecked over reliance on high-tech support contractors. The DoD should concentrate on two main focus points; contract oversight and alternate support options. Improving the contract officer force is the first step toward the reduction poor contractor performance at deployed locations. Identify those contractor tasks that are mission essential and planning for alternative support options is the most critical step in safeguarding against a contractors refusal to perform.

Contractor oversight is essential to building a solid relationship with the contract force and ensuring the proper expertise is hired and forward deployed. In the case of DynCorp's failures in Iraq, this may easily have been avoided with proper, engaged contract oversight. The Congressional Research Service found that "some analysts believe that lax contractor oversight may lead to contractor abuses which can undermine U.S. counter-insurgency efforts."⁵³ General Petraeus agrees that when contracting with "insufficient oversight, it is likely that some of those funds will unintentionally fuel corruption, finance insurgent organizations, strengthen criminal patronage networks, and undermine our efforts in Afghanistan."⁵⁴

The DoD must reenergize its contracting force, especially the Army and Marine Corps which have relied on the Air Force for contracting assistance and senior officer leadership.⁵⁵ All services must "increase the stature, quantity, and career development" of their contracting force.⁵⁶ This will ensure the best officers and senior NCOs are recruited for these duties. This in turn, combined with a significantly increased deployable contracting officer numbers, will curb the incidents of poor contractor oversight, thus decreasing the risk to our force. Additionally, the

⁵³ Schwartz, 11.

⁵⁴ Petraeus, COMISAF's COIN Guidance.

⁵⁵ Commission on Army Acquisition and Program Management in Expeditionary Operations, 4.

⁵⁶ Ibid, 47.

2010 QDR directs that the DoD will “improve the Civilian Expeditionary Workforce, which provides deployable civilian experts to Afghanistan, Iraq, and other theaters.”⁵⁷ It also states:

“The services provided by contractors will continue to be valued as part of a balanced approach that properly considers both mission requirements and overall return. In keeping with the Administration’s goal of reducing the government’s dependence on contractors, the Department introduced its in-sourcing initiative in the FY 2010 budget. Over the next five years, the Department will reduce the number of support service contractors to their pre-2001 level of 26 percent of the workforce (from the current level of 39 percent) and replace them, if needed, with full-time government employees. These efforts will help establish a balanced total workforce of military, government civilians, and contractor personnel that more appropriately aligns public and private-sector functions, and results in better value for the taxpayer.”⁵⁸

A portion of this government, civilian workforce should be trained as contracting officers. This would provide additional deployable contracting specialists to assist operational and tactical commanders with contract oversight expertise and capability. This is the first critical step in reducing the risk of insufficient contractor oversight and is reinforced by SecDef guidance and the 2010 QDR.

Additionally, a mechanism for contractor replacement, by military or government civilian for all mission essential contingency support contracts must be developed. It is critical that those duties for which military personnel are unable or untrained to perform be detailed and available to operational planners. These should also be included in the OPLAN contracting annex (W) with specific details for replacement actions. There must be an actionable plan/capacity to replace systems support contractors on moments’ notice. This is, however, not a new concept, as the guidance is already established in DoD instructions. As early as 1990, DODI 3020.37, set

⁵⁷ Department of Defense, *Quadrennial Defense Review Report* (Washington, D.C.: Department of Defense, February 2010), xiii.

⁵⁸ DoD, QDR 2010, 55-56.

policy for the DoD to “include provisions in operations or contingency plans to assume or supplement contractor-supplied essential services during crisis situations at the earliest opportunity...and ensure the contract SOW requires the development of contractor contingency plans for those tasks that have been identified as essential to provide reasonable assurance of continuation during crisis conditions.”⁵⁹ Clear articulation of this requirement must be included in each contract statement of work.

This “replacement” force does not have to be a one for one capability. It is reasonable to design a small force capable of continuing essential services on short notice until additional capability can be obtained. For instance, it is extremely rare for an entire contract force (a contract maintenance unit for example) to refuse or fail to perform. In most cases, replacements would be required for only small numbers of personnel, perhaps only a single individual. For this reason, active duty military or government civilians should be trained, in small numbers, as replacements capable of performing those duties identified as mission essential.

It is imperative for the military to incorporate the policies in both DODI 3020.37 and 3040.21 into operational planning and ensure “contractors providing services designated as essential...use all means at their disposal to continue to provide such services, in accordance with the terms and conditions of the contract during periods of crisis.”⁶⁰ The DoD must act quickly to enhance the contracting officer/NCO career fields to add additional contingency contractor oversight, and expend the effort required to identify mission essential service support contracts and plans for replacement. These actions will significantly reduce the risk associated with our reliance on high-tech service support contractors.

⁵⁹ DoD Instruction 3020.37, *Continuation of Essential DoD Contractor Services During Crises* (Washington, D.C.: Department of Defense, 6 November 1990 and Change 1, January 26, 1996) 5.

⁶⁰ DODI 3020.37, 2, and DODI 3040.21, 6.

COUNTER ARGUMENTS

I have never yet found a contractor who, if not watched, would not leave the government holding the bag. Senator Harry S. Truman, 1941⁶¹

Secretary of Defense Robert Gates recently ordered a 30 percent decrease in service support contracts and an immediate 10 percent reduction in funding for some intelligence functions.⁶² Additionally, the 2010 QDR addresses a reduction in service support contractors by increasing the deployable DoD “Civilian Expeditionary Workforce” to help balance the force.⁶³ In light of this guidance, it is reasonable to conclude that our contractor force will decrease significantly in the future, possibly being replaced by a large number of government civilians. Nevertheless, even if decreased to the levels stated in the 2010 QDR, a substantial contractor force would remain.⁶⁴ In addition, in many cases, it would be difficult for the government civilian pay structure to match that of the contractor, especially for the most highly skilled technicians. A specific value comparison would require an in-depth market analysis, but defending the cost of government civilians or active duty military compared to the historical cost benefits of contractors would be a difficult proposition.

Conversely, the eventual drawdown of forces in Iraq and Afghanistan will allow active duty military manpower to replace the system support contractor force. However, with the continued requirements of global pursuit efforts to disrupt and destroy terrorist and violent extremist networks, such a proposition would require a growth in our current end-strength. It would also require a significant increase in pay and bonuses in order to attract and retain those capable of

⁶¹ Franke, 1.

⁶² Robert M. Gates, Secretary of Defense, memorandum to Secretaries of the Military Departments, et al., subject: Department of Defense Efficiency initiatives, 16 August 2010. The Secretary’s letter directed a 30 percent decrease in service support contractors before the end of 2013.

⁶³ DoD, QDR 2010, xiii.

⁶⁴ Ibid, 55-56. The 2010 QDR directs a decrease in support contractors from the current 39 percent to a pre-2001 level of 26 percent of the total force.

maintaining our most advanced systems. Such bonuses are hard fought in government circles and will likely not survive the contractor vice military cost/benefit analysis. It is simply impractical to think that the U.S. could train and pay enough military members to carry out all, or even most of the service support contracts.

One final counter argument is the risk itself. Combatant commanders assume risk in every action the force undertakes. Therefore, it is debatable that the risk of poor contract performance, regardless of the cause, is part of the cost of doing business. The probability of occurrence is so low that the risk can be absorbed by the total force as it has in the past. Supporting this argument is the fact that many “contractors have continued to do their jobs under even the most dangerous and austere conditions.”⁶⁵ While this is true, numerous high-tech system support contractors are single points of failure and commanders are directed by the DoD to take actions to guard against the risk. Of course cost and benefits have to be taken into account and some level of risk will always remain, but it is commanders’ business to mitigate that to the lowest acceptable level.

CONCLUSION

Service support contractors are a foundational part of life in the modern U.S. military and they will continue to be a vital part of the force structure in the future. Contract support to high-technology systems is essential, “particularly when the tasks are so complex that it is not economically beneficial...to maintain needed capability within the force.”⁶⁶ Service support contractors currently maintain a number of systems ranging from aircraft to intelligence. These high-tech support contracts provide a high level of experience and expertise at a lower cost than active duty personnel and despite the new trend toward downsizing of support contractors, there will remain a relatively large contractor force for the foreseeable future. However, the U.S.

⁶⁵ Cancian, 8.

⁶⁶ Zamparelli, 6.

military has struggled with the risks of poor contractor oversight and the individual contractor's right to refuse to perform duties under high threat conditions. Operational level commanders and staff must work without delay to mitigate these risks and provide tactical level front line operators with the most reliable support possible.

The first step in this process is to restructure and increase the career field for both active duty and government civilian contracting officers. Despite a 700 percent increase in contracting requirements since 2001, the military departments have decreased their contracting staffs and eliminated most of the senior contracting officer positions.⁶⁷ This decrease in contracting office strength has resulted in an overburdened staff, struggling to oversee a contract force that outnumbered active duty personnel in combat zones around the world. The military should immediately reenergize its contracting staffs at the action officer and general officer levels. Perhaps the best opportunity to improve contractor oversight is by developing a larger cadre of expeditionary government civilian contracting officers who can deploy forward to provide the necessary expertise and oversight.

Second, a mechanism to identify mission essential contractor tasks should be developed and incorporated into the statement of work and utilized during the joint planning process. Indeed, there must be an actionable plan for contract replacement should the contractor fail to perform, regardless of the cause. The solution for this issue is largely defined in DoD Instructions and Joint Doctrine. Once identified as mission essential contractor performed tasks, the service components must provide an alternate capability available for immediate use if a contractor fails or refuses to perform. This backup capability does not have to be a one for one replacement, but

⁶⁷ Commission on Army Acquisition and Program Management in Expeditionary Operations, 2, 32.

a small highly skilled cadre of military and government civilians who can continue mission essential duties until a suitable replacement can arrive.

This is a difficult problem, but not unsolvable. Contractors fill a vital role, and just like active duty personnel, they bring inherent risks. Operational leaders must work with an improved contracting staff to plan for and mitigate these risks. In the end, some risk will always remain, but with comprehensive contract oversight and a capability to quickly replace mission essential contractors, the risk of over reliance will be mitigated to an acceptable level.

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